



<NOTICE>

<PREAMB>

Billing Code: 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-583-833]

Polyester Staple Fiber from Taiwan: Notice of Court Decision Not in Harmony with Final Results of Administrative Review and Amended Final Results of Antidumping Duty Order Administrative Review.

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: On November 14, 2012,¹ the United States Court of International Trade (“CIT”) sustained the Department of Commerce’s (“the Department”) results of redetermination² pursuant to the CIT’s *FENC Remand Order*.³

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken*,⁴ as clarified by *Diamond Sawblades*,⁵ the Department is notifying the public that the final judgment in this case is not in harmony with the Department’s *Final Results*⁶ and is amending the final results of the administrative review of the antidumping duty order on polyester staple fiber from Taiwan covering the period of review (“POR”) May 1, 2009, through April 30, 2010, with respect to the margin assigned to Far Eastern New Century Corporation (“FENC”).

EFFECTIVE DATE: November 26, 2012⁷

¹ See *Far Eastern New Century Corporation v. United States*, Slip-Op. 12-136 (CIT 2012).

² See *Results of Redetermination Pursuant to Remand Order*, CIT Court No. 11-00415, Slip Op. 12-110 (August 29, 2012) (*Remand Results*).

³ See *Far Eastern New Century Corporation v. United States*, Slip-Op. 12-110 (CIT 2012) (*FENC Remand Order*).

⁴ See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

⁵ See *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

⁶ See *Certain Polyester Staple Fiber From Taiwan: Final Results of Antidumping Duty Administrative Review*, 76 FR 57955 (September 19, 2011).

⁷ Because the deadline, November 24, 2012, falls on a Saturday, the deadline is postponed until the next business

FOR FURTHER INFORMATION CONTACT: Michael A. Romani or Minoo Hatten, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-0198 or (202) 482-1690.

SUPPLEMENTARY INFORMATION:

Background

Subsequent to completion of its administrative review under the antidumping duty order on polyester staple fiber from Taiwan, FENC challenged certain aspects of the Department's *Final Results* at the CIT. On August 29, 2012, the CIT remanded to the Department its calculation of FENC's dumping margin to correct certain ministerial errors.⁸ The Department filed its *Remand Results* on October 15, 2012. On November 14, 2012, the CIT upheld the Department's *Remand Results* wherein we recalculated FENC's dumping margin employing the results of the *Final Results*' comparison market calculations rather than those calculated for the *Preliminary Results*.⁹

Timken Notice

In its decision in *Timken*, as clarified by *Diamond Sawblades*, the CAFC has held that, pursuant to section 516(e) of the Tariff Act of 1930, as amended ("the Act"), the Department must publish a notice of a court decision that is not "in harmony" with a Department determination and must suspend liquidation of entries pending a "conclusive" court decision.¹⁰

day. See *Notice of Clarification: Application of "Next Business Day" Rule for Administrative Determination Deadlines Pursuant to the Tariff Act of 1930, as Amended*, 70 FR 24533 (May 10, 2005).

⁸ See *FENC Remand Order*.

⁹ See *Certain Polyester Staple Fiber From Taiwan: Preliminary Results of Antidumping Duty Administrative Review*, 76 FR 22366 (April 21, 2011).

¹⁰ See *Timken*, 893 F.2d at 341.

The CIT's November 14, 2012, judgment sustaining the *Remand Results* constitutes a final decision of that court that is not in harmony with the *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. The cash deposit rate will remain the company-specific rate established for the subsequent and most recent period during which the respondent was reviewed.

Amended Final Results

Because there is now a final court decision with respect to FENC, we are amending the *Final Results* with respect to the margin for FENC. The revised dumping margin is as follows:

<u>Producer and Exporter</u>	<u>Weighted-average margin(percent)</u>
Far Eastern New Century Corporation	0.75

If the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise produced and exported by FENC during the POR at 0.75 percent.

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

November 23, 2012 _____
(Date)

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